

Express Mail No. EV 423 774 778 US

Patent  
Attorney Docket No. 2076/US/2

### DECLARATION FOR PATENT APPLICATION

#### DECLARATION:

As one of the below-named inventors, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled "System and Method for Controlling an Exercise Apparatus," which may be identified as Serial No. 10/789,579, filed February 26, 2004; also known as Attorney Docket No. 2076/US/2, filed with Express Mail Label No. EV 447 463 112 US. I authorize the assignee, or its agent or representative, to fill in the serial number for this application once it is available.

The persons named as inventors in this application are: Douglas A. Crawford and Bradley J. Smith.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. 1.56, as attached.

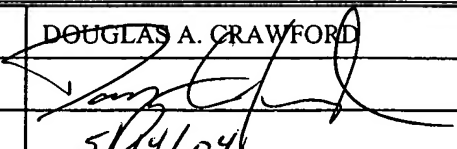
I hereby claim the benefit under 35 U.S.C. 120/365 of the United States patent application listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

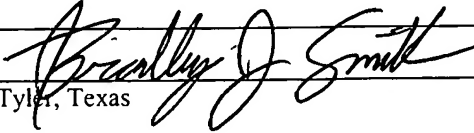
U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below:

U.S. PROVISIONAL APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)
60/450,890	28 February 2003	Pending on 2/26/2004

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Inventor's Full Name:	DOUGLAS A. CRAWFORD
Inventor's Signature:	
Date:	5/14/04
Residence: (City, State and/or Country)	Lafayette, Colorado
Citizenship:	United States
Post Address Office:	2543 Otter Court, Lafayette, Colorado 80026

Inventor's Full Name:	BRADLEY J. SMITH
Inventor's Signature:	
Date:	5-15-04
Residence: (City, State and/or Country)	Tyler, Texas
Citizenship:	United States
Post Address Office:	10452 Ranch Road, Tyler, Texas 75703

**§ 1.56 Duty to disclose information material to patentability.**

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) Prior art cited in search reports of a foreign patent office in a counterpart application, and
  - (2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
- (1) It establishes, by itself or in combination with other information, a *prima facie* case of unpatentability of a claim; or
  - (2) It refutes, or is inconsistent with, a position the applicant takes in:
    - (i) Opposing an argument of unpatentability relied on by the Office, or
    - (ii) Asserting an argument of patentability.

A *prima facie* case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
- (1) Each inventor named in the application;
  - (2) Each attorney or agent who prepares or prosecutes the application; and
  - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent or inventor.
- (e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.



Express Mail No. EV 423 774 778 US

PATENT  
Attorney Docket No. 2076/US/2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Douglas A. CRAWFORD, et al.

Serial No. 10/789,579

Filed: February 26, 2004

For: SYSTEM AND METHOD FOR CONTROLLING AN  
EXERCISE APPARATUS

Examiner: Not Yet Assigned

Art Unit: 3764

**COMBINED POWER OF ATTORNEY BY ASSIGNEE  
AND SUBMISSION UNDER 37 C.F.R. §§ 3.71 AND 3.73(b)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

As an officer of Nautilus, Inc. ("assignee"), a Washington corporation, I hereby certify that the undersigned is a representative authorized and empowered to sign on behalf of the assignee, and that to the best of assignee's knowledge and belief it is the assignee of the entire right, title and interest in and to the above-referenced patent application by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application identified above,  
☒ 1. a copy of which is attached; or  
☐ 2. which is recorded in the U.S. Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, a copy of which is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application identified above, to the current assignee as shown below:

1. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the U.S. Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, a copy of which is attached.
2. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the U.S. Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or a copy of which is attached.

Assignee hereby appoints on its behalf the following patent attorneys to prosecute the patent application identified above and to transact all business in the Patent Office connected therewith:

Dorsey & Whitney LLP  
USPTO Customer No. 20686

Pursuant to 37 C.F.R. § 3.71, the assignee hereby states that prosecution of the above-referenced patent application is to be conducted to the exclusion of the inventors.

Send all correspondence relating to this matter to:

Dorsey & Whitney LLP  
USPTO Customer No. 20686

Direct all telephone calls to **Lee R. Osman** at **303-629-3434**.

The undersigned hereby declares that all statements made herein of his/her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18, United States Code, § 1001 and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed this 19th day of May, 2004.

ASSIGNEE:

NAUTILUS, INC.

By Holden J. Bank  
Name: Holden Bank  
Title: Vice President, Corporate Counsel, and  
Assistant Secretary  
Address: 1886 Prairie Way  
Louisville, Colorado 80027

## ASSIGNMENT

WHEREAS, we, Douglas A. Crawford and Bradley J. Smith, whose post office addresses are shown below, have made a certain new and useful invention relating to a System and Method for Controlling an Exercise Apparatus, for which we have made application for Letters Patent of the United States, which application may be identified in the United States Patent Office as Application Serial No. 10/789,579 for SYSTEM AND METHOD FOR CONTROLLING AN EXERCISE APPARATUS, which is also identified by Dorsey & Whitney LLP Attorney Docket No. 2076/US/2, filed on February 26, 2004; and

WHEREAS, Nautilus, Inc., a Washington corporation, whose post office address is 1400 NE 136th Avenue, Vancouver, Washington 98684-0818, by an earlier Assignment dated July 22, 2003, owns all right, title, and interest in and to the U.S. Provisional Application Serial No. 60/450,890 filed February 28, 2003 entitled "System and Method for Controlling an Exercise Apparatus;" and

WHEREAS, to the extent that we now own any right, title and interest in the invention described and claimed in Application Serial No. 10/789,579, which is also identified by Dorsey & Whitney LLP Attorney Docket No. 2076/US/2, not already transferred to Nautilus, Inc. by the earlier Assignment, we are desirous of assigning such interest to Nautilus, Inc.; and

WHEREAS, Nautilus, Inc. is desirous of acquiring the entire interest in and to said invention, said application and any continuation, continuation-in-part, divisional, renewal, or substitute thereof, international and foreign and regional applications corresponding thereto, and the Letters Patent, or any reissue or reexamination thereof, to be obtained therefor:

NOW THEREFORE, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration to us in hand paid, the receipt and sufficiency of which are hereby acknowledged, we have sold, assigned, and set over and by these presents do hereby sell, assign and set over unto Nautilus, Inc., and its legal representatives, successors and assigns, the entire right, title and interest in and to said invention, said application and any continuation, continuation-in-part, divisional, renewal or substitute thereof, international and foreign and regional applications corresponding thereto, and the Letters Patent, both foreign and domestic, that may or shall issue thereon, or any reissue or reexamination thereof, to the extent

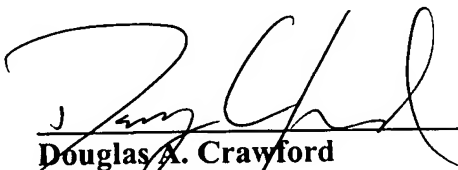
we own any part thereof; and we do hereby authorize and request the Commissioner of Patents to issue said Letters Patent to the above-mentioned assignee, consistent with the terms of this Assignment.

We HEREBY AUTHORIZE the above-mentioned assignee to insert in this instrument the filing date and serial number of said application, and the execution date of said earlier Assignment.

UPON SAID CONSIDERATION, we hereby covenant and agree with the said assignee that we will not execute any writing or do any act whatsoever conflicting with these presents, and that we will, at any time upon request, without further or additional consideration, but at the expense of the said assignee, execute such additional assignments and other writings and do such additional acts as said assignee may deem necessary or desirable to perfect the assignee's enjoyment of this grant, and render all necessary assistance in making application for and obtaining original, continuation, continuation-in-part, divisional, renewal, reissued or extended Letters Patent of the United States, or of any and all foreign countries, on said invention, and in enforcing any rights or choses in action accruing as a result of such applications or patents, by giving testimony in any proceedings or transactions involving such applications or patents, and by executing preliminary statements and other affidavits, it being understood that the foregoing covenant and agreement shall bind, and inure to the benefit of, the assigns and legal representatives of both parties.

IN WITNESS WHEREOF, we have hereunto set our hands and affixed our seals on the date indicated below.

5/14, 2004

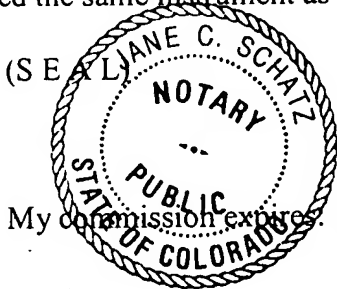
  
\_\_\_\_\_  
**Douglas A. Crawford**  
2543 Otter Court  
Lafayette, Colorado 80026

STATE OF COLORADO )

) SS.

COUNTY OF BOULDER )

On this 14<sup>th</sup> day of May, 2004, before me a notary public in and for said county, appeared Douglas A. Crawford, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and acknowledged that he signed, sealed and delivered the same instrument as a free and voluntary act for the uses and purposes therein set forth.



Jane C. Schatz  
Notary Public

My commission expires

9/28/06

\_\_\_\_\_, 2004

**Bradley J. Smith**  
10452 Ranch Road  
Tyler, Texas 75703

STATE OF TEXAS )

) SS.

COUNTY OF \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 2004, before me a notary public in and for said county, appeared Bradley J. Smith, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and acknowledged that he signed, sealed and delivered the same instrument as a free and voluntary act for the uses and purposes therein set forth.

(S E A L)

**Notary Public**

My commission expires: \_\_\_\_\_

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF BOULDER     )

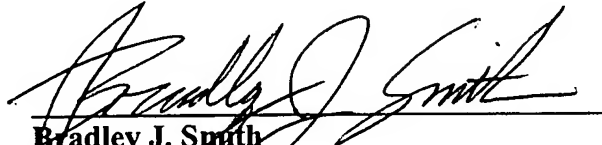
On this \_\_\_\_\_ day of \_\_\_\_\_, 2004, before me a notary public in and for said county, appeared Douglas A. Crawford, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and acknowledged that he signed, sealed and delivered the same instrument as a free and voluntary act for the uses and purposes therein set forth.

(S E A L)

\_\_\_\_\_  
Notary Public

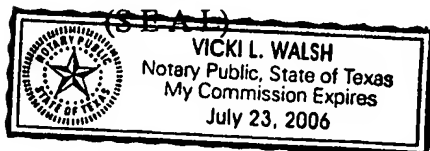
My commission expires: \_\_\_\_\_.

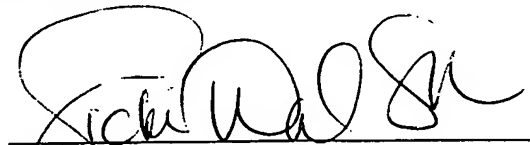
5-15, 2004

  
Bradley J. Smith  
10452 Ranch Road  
Tyler, Texas 75703

STATE OF T E X A S     )  
  ) ss.  
COUNTY OF \_\_\_\_\_)

On this 15<sup>th</sup> day of May, 2004, before me a notary public in and for said county, appeared Bradley J. Smith, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and acknowledged that he signed, sealed and delivered the same instrument as a free and voluntary act for the uses and purposes therein set forth.



  
\_\_\_\_\_  
Notary Public

My commission expires: 7/23/06.